REMARKS

The Examiner rejected claims 1 – 8 and 21 under §102(a) as anticipated by Sauer (U.S. Patent No. 6,049,543). Claim 1 claims a base station controller that includes a plurality of resource pools, a switching fabric, and a system controller. In particular, the switching fabric of claim 1 provides "redundant and independent access to each of said resource pools such that resources from each said resource pool are independently selectable from resources in other said resource pools by configuring said switching fabric" (emphasis added).

The Examiner asserts that column 7, lines 32 – 36 of Sauer teaches the redundant switching fabric of claim 1. However, a plain reading of Sauer and in particular of the cited passage shows that Sauer does not teach redundant access to each of the resource pools. Instead, Sauer simply teaches a single ATM switch 251 within a base station subsystem (BSS) that selectively connects the BSC 220, the XC 252, the BTSI 253, and/or the NI 254 (see Figure 1A), depending on the desired configuration. There is nothing in the figures or in the text of Sauer that teaches or suggests that ATM switch 251 provides redundant access to each resource pool. Further, there is nothing in Sauer to teach or suggest that the BSS may include anything other than the single ATM switch 251. As such, Sauer does not teach or suggest multiple interconnected, and therefore, redundant switches.

It is also important to note that in rejecting claim 3 (page 3 of the office action), the Examiner concedes that Sauer does not teach redundant switching resources. Instead, the Examiner asserts that it would be obvious to combine a secondary reference (Hoffpauir) with Sauer in order to provide redundant switching resources in the event that primary switching resources fail. As such, the Examiner concedes that Sauer does not teach a switching fabric that provides redundant access to each resource pool, as required by claim 1. For at least these reasons, independent claim 1 is patentably distinct over Sauer.

Similarly, as amended, claim 21 also requires that the switching fabric provide redundant and independent access to each resource pool. Therefore, for substantially the same reasons provided above, independent claim 21 is also novel in view of Sauer.

Because independent claims 1 and 21 are novel, dependent claims 2 – 8 and 22 – 24 are necessarily patentably distinct. Therefore, the rejections against claims 2 – 8 and 22 – 24 are moot.

However, Applicants note that while the Examiner rejected claim 3 under §102, the basis for the rejection indicates that the Examiner is relying on §103. Therefore, the rejection of at least claim 3 is improper and must be withdrawn or resubmitted in another non-final office action.

The Examiner also rejected claims 9, 10, 16 – 19, 20, and 22 – 24 as obvious under §103 in view of Sauer, and claims 11 – 15 as obvious under §103 in view of Sauer and further in view of Hoffpauir (US H1964). Independent claim 9 requires a base station controller organized as a hub subrack and at least one processing subrack. The Examiner concedes that Sauer does not teach a hub subrack or a processing subrack. However, the Examiner asserts that because Sauer allows for the addition or removal of resources as needed (column 5, lines 28 – 33), that Sauer teaches that the BSC and ATM switch could be on a hub subrack and that other processing resources could be on different racks/subracks.

With all due respect, the Examiner misinterprets Sauer. Column 5, lines 25 – 41 of Sauer simply state that the BSS is not limited to the specific number of components illustrated in Figure 1A. Nothing in the cited section or in any other portion of Sauer teaches or suggests that the components may be reorganized onto interconnected hub subracks and/or processing subracks.

Further, even if *arguendo* the components of Sauer could be organized onto different subracks, nothing in Sauer even begins to suggest how such an organization would be implemented or how it would be interconnected. The Examiner is simply extrapolating the

teachings of the current invention into Sauer in an attempt to support the rejection. As such, the rejection is based on impermissible hindsight and cannot be maintained.

Further still, claim 9 requires that both the hub subrack and the processing subrack include switching resources. Contrastingly, Sauer only teaches one switching resource, ATM switch 251. Even if reorganized onto subracks, only one proposed subrack in Sauer could contain a switching element. Because Sauer only teaches a single ATM switch, and because nothing in Sauer teaches or suggests including additional switches for any reason, as discussed above, Sauer does not teach hub and processing subracks that each have their own switching systems/elements, as required by claim 9.

In addition, the Examiner's rejection does not make sense. The Examiner asserts that the BSC and ATM switch of Sauer could be located on a hub subrack, and that other resources taught by Sauer could be located on processing subracks. However, claim 9 requires that the BSC be organized as a hub subrack and processing subrack. Clearly, a BSC organized as a hub and processing subrack system cannot include itself as one of the subracks. For at least these reasons, independent claim 9 is patentably distinct from the cited art.

Because claim 9 is patentable, dependent claims 10 – 20 are necessarily patentably distinct from the prior art. Therefore, the §103 rejections cited against these claims are rendered moot. In addition, Applicants note that neither Sauer nor Hoffpauir, alone or in combination, teach or suggest the specific hub and processing subrack implementations claimed in at least claims 11, 16, and 18. In particular, neither Sauer nor Hoffpauir teach or suggest any type of interconnected subrack system. More importantly, neither Sauer nor Hoffpauir teach or suggest that the hub subrack and the processing subrack(s) each include a communication switch, where the switches are interconnected by a plurality of communication links, as required by claim 11. In addition, neither Suaer nor Hoffpauir teach a processing subrack having a percentage of an overall base station call processing capacity (claim 16), or that a system controller may be configured to select the desired combination of resource pools

from a minimum number of processing subracks (claim 18). Therefore, even if there is motivation to combine Sauer and Hoffpauir, *arguendo*, the combination does not produce the result of at least claims 11, 16, or 18.

For at least the above-discussed reasons, claims 1 – 24 are patentably distinct from the cited art. Applicants respectfully request reconsideration of the rejections and allowance of the claims. While Applicants believe this response addresses all of the Examiner's rejections, should any issues remain, Applicants request the Examiner call the undersigned so that any such issues may be expeditiously resolved.

Respectfully submitted,

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